

two lysing agents from which one or more is selected and used to form the lyse/blood mixture". (Office Action at page 2, paragraph 2). The Examiner further states: "The meaning [of the language in the original specification] is that the blood from any species may be lysed by creating a mixture using lysing agent A, lysing agent B or a combination of lysing agents A and B. This is different from lysing agent A can be used to lyse the blood of all species which the examiner is interpreting as the broadest possible interpretation of the claims. Clearly, the instant specification fails to state that a single lysing agent can be used to lyse the blood of all animal species". (Office Action at page 3, paragraph 3). The Examiner's grounds for rejection are hereinafter traversed, and reconsideration is respectfully requested, particularly in view of the following remarks.

In sum, the Examiner asserts that the claims, when interpreted as broadly as their terms reasonably allow, require that a single lysing agent be used to lyse the blood of all animal species. It is respectfully submitted that this interpretation of the claims is not correct. First, the Examiner is correct that during examination, the claims must be interpreted as broadly as their terms "reasonably" allow. M.P.E.P. § 2111.01. However, "[t]his means that the words of the claim must be given their plain meaning unless applicant has provided a clear definition in the specification." *Id.* As set forth in further detail below, none of the currently-pending claims are properly interpreted to mean that a single lysing agent be used to lyse the blood of all animal species, as asserted by the Examiner.

The Examiner has agreed that the original specification of this application supports a single lysing agent lysing the blood of plural (more than one) species. As acknowledged by the Examiner, in the paragraph spanning pages 8-9, the present disclosure teaches that "predetermined volumes of lysing agent A and/or lysing agent B are aspirated from the lysing chamber 18 and 19, respectively, by the pump unit 16, and injected through the valve matrix 14 into the mixing cuvette 13, along with the blood sample and diluent to formulate the sample/blood reagent

mixture, as described further below" (emphasis added). As further acknowledged, the last paragraph on page 27 of the present specification teaches that "[a]s illustrated above, the volume of lyse A and/or the volume of lyse B (and other lyse agents may be added if necessary) can be automatically adjusted and mixed with the blood/diluent mixtures in the mixing cuvette to effect proper separation of blood cells on a species-by-species basis" (emphasis added). Accordingly, the original specification clearly teaches that one lysing agent can be used to lyse the blood of plural (more than one) species. The claims, when properly interpreted, are no broader in scope than these teachings of the original specification.

The applicable language of independent claim 27 reads as follows:

"A method for making a plurality of different reagent mixtures comprising blood and analyzing particle distributions of the reagent mixtures, wherein each reagent mixture corresponds to a respective operator input indicative of a respective species of blood, . . . the method comprising the following steps:

adjusting the volumetric ratio of the at least one lysing agent to blood, in response to an operator input indicative of a respective species of blood, to correspond to the respective operator input, and thereby form a predetermined reagent mixture corresponding to the respective operator input and species of blood . . . ."

Thus, independent claim 27, when properly interpreted in accordance with the plain meanings of the words used, recites a method of making a plurality of (or more than one) reagent mixtures, wherein each such mixture corresponds to a respective operator input indicative of a respective species of blood. Nowhere does this claim state that one lysing agent must lyse all animal species, as asserted by the Examiner. Rather, this claim contemplates one lysing agent being used to lyse the blood of plural (more than one) species, and therefore is entirely consistent with, and fully supported by the original specification.

Independent claims 35 recites in pertinent part:

“An apparatus for making a plurality of reagent mixtures comprising blood and analyzing particle distributions of the reagent mixtures, comprising: . . . means for adjusting the volumetric ratio of blood to the at least one lysing agent for creating a plurality of different reagent mixtures, each corresponding to a respective operator input indicative of at least one respective species of blood . . . .”

Thus, independent claim 35, when properly interpreted in accordance with the plain meanings of the words used, recites an apparatus for making a plurality of (or more than one) reagent mixtures, and means for adjusting the volumetric ratio of blood to one or more lysing agents for creating plural (or more than one) different reagent mixtures, wherein each such mixture corresponds to a respective operator input indicative of one or more species of blood. Nowhere does this claim state that one lysing agent must lyse all animal species, as asserted by the Examiner. Rather, this claim contemplates one lysing agent being used to lyse the blood of plural (more than one) species, and therefore is entirely consistent with, and fully supported by the original specification.

Independent claim 38 recites in pertinent part:

An apparatus for making a plurality of reagent mixtures for multi-species hematology testing, and for sensing particle distributions of the mixtures for multi-species hematology analysis, comprising: . . . a control unit electrically coupled to the at least one pump for adjusting the volumetric ratio of the blood specimen to the at least one lysing agent in correspondence with an operator input corresponding to a respective one of the plurality of species and, in turn, creating a reagent mixture therefrom having a blood to lysing agent volumetric ratio corresponding to the operator input and respective species . . . .”

Similarly, independent claim 41 recites, in pertinent part:

“An apparatus for making a plurality of reagent mixtures for multi-species hematology testing, and for sensing particle distributions of the mixtures for multi-species hematology analysis, comprising: . . . fourth means electrically coupled to the second means for adjusting the volumetric ratio of the blood specimen to the at least one lysing agent in correspondence with an operator input corresponding to a respective one of the plurality of species and, in turn, creating a reagent mixture therefrom having a blood to lysing agent volumetric ratio corresponding to the operator input and respective species . . . .”

Thus, independent claim 38 and 41, when properly interpreted in accordance with the plain meanings of the words used, each recites an apparatus for making a plurality of (or more than one) reagent mixtures for multi-species (more than one species) hematology testing, and for sensing particle distributions of the mixtures for multi-species hematology analysis. Further, each claim recites a control unit or other means for adjusting the volumetric ratio of blood to one or more lysing agents for creating a reagent mixture having a blood to lysing agent volumetric ratio corresponding to a respective operator input and species. Nowhere do either of these claims state that one lysing agent must lyse all animal species, as asserted by the Examiner. Rather, each claim contemplates one lysing agent being used to lyse the blood of a respective selected species, and therefore is entirely consistent with, and fully supported by the original specification.

In sum, it is respectfully submitted that the Examiner has not properly interpreted the pending claims, and that none of the pending claims state that one lysing agent must lyse the blood for all animal species, as asserted by the Examiner. Further, when the claims are properly interpreted in accordance with the plain meanings of the words used, as summarized above, the claims are entirely consistent with the disclosure of the original specification as acknowledged by the Examiner.

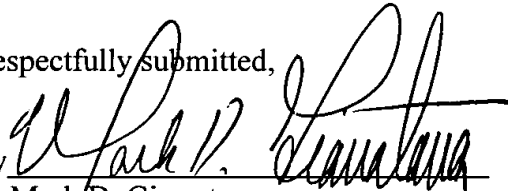
It is therefore respectfully submitted that claims 27-30, 32-35, and 38-45 are fully supported by the original specification for at least these reasons, and are in condition for allowance. All issues raised by the Examiner having been addressed, an early action to that effect is earnestly solicited.

Any additional fees or overpayments, other than those already paid, as a result of filing the present paper may be applied to Deposit Account No. 50-1631.

If after reviewing this Response, the Examiner believes that a telephone discussion would facilitate the resolution of any remaining matters, or if the Examiner has any questions or requires any further information, the Examiner is respectfully requested to call the undersigned at the telephone number below.

Respectfully submitted,

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